IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.612 of 2006

E.Govindaraj ... Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Thiruvannamalai District.
Thiruvannamalai-606 601. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the detention order in D.O.No.31/2006-C2 dated 18.05.2006 passed by the second respondent, quash the same and direct the respondents to produce the corpus of the detenue viz., Adhilakshmi W/o Palani residing at Veerakoil Street, Padavedu Village, Polur Taluk, Thiruvannamalai District(now detained in Special Central Prison for Women, Vellore) before this Court and set her at liberty.

For Petitioner : Mr.S.Kumaradevan
For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the brother of the detenue, by name Adhilakshmi, who is detained as a ''Bootlegger" as contemplated under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates

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Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 18.05.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, the learned counsel appearing for the petitioner submitted that there was a delay in passing the detention order. According to him, in the absence of proper explanation by the person concerned, the detention order passed on 18.05.2006 cannot be sustained. Elaborating the above argument, the learned counsel for the petitioner has brought to our notice that the detenue was arrested on 05.04.2006 and the contraband seized from her was sent to the Forensic Laboratory on the same day and the sponsoring authority has received the report on 10.04.2006. The statement was also obtained from the Doctor on the same day i.e. on 10.04.2006 itself. In such circumstances, there is no explanation for taking time till 18.05.2006 for passing the detention order and the same is liable to be set aside.

4. It is not in dispute that though the detenue had involved in three adverse cases, a perusal of the details available in the grounds of detention show that in the first adverse case, she had paid the fine amount on 19.04.2005 itself. In the second case also she was convicted and sentenced to undergo simple imprisonment for two weeks on 19.04.2005. The only other case is third occurrence dated 17.02.2006 and the same is pending trial on the file of Judicial Magistrate, Polur, in C.C.No.95 of 2006. It is also relevant to note that all the three said adverse cases are from the very same police station viz., Santhavasal Police Station.

4. In the light of the above factual details and taking note of the fact that all the required materials/documents were received by the sponsoring authority even on 10.04.2006 in respect of ground case, in the absence of any explanation by the person concerned, we hold that the detention order passed on 18.05.2006 cannot be sustained. As rightly pointed out by the learned counsel for the petitioner, there is no proximity between the ground occurrence and the detention order passed after a period of 38 days. On this ground, the detention order is liable to be quashed and accordingly, the same is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed

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to be set at liberty forthwith from the custody unless she is required in some other case or cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector, Thiruvannamalai District, Thiruvannamalai.

3. The Superintendent, Special Prison for Women, Vellore.
(In duplicate for communication to detenue)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

1 cc to Mr.S.Kumaradevan, Advocate, SR.40400

je (co)

dv/13.9.06

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